

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of)
)
Deployment of Wireline Services Offering) CC Docket No. 98-147
Advanced Telecommunications Capability)

COMMENTS OF BELL SOUTH

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SUMMARY

The Commission is not writing on a clean slate in this proceeding. The Commission is responding to a court order vacating and remanding aspects of its prior collocation rules that the court found exceeded the Commission's authority under the Communications Act. The Commission is bound by law to give full effect to the Court's mandate. Many of the proposals made in the *Second Further Notice* are inconsistent with this state of affairs.

In particular, the Commission must give substance to the Court's finding that Congress authorized intrusion into the property rights of the incumbent LECs only to the extent "necessary" to permit physical collocation for certain defined purposes. Those purposes are "interconnection" with the incumbent's network or "access to unbundled network elements" obtained from the incumbent. The Commission cannot expand this congressional authorization for policy reasons.

Limiting collocation rights to those authorized by Congress does not relegate competing carriers to using inefficient equipment. There are increasingly available alternatives to collocation at incumbent LEC premises. In Atlanta, over the past six weeks alone developers have announced over two million square feet of floor space outside the incumbent LEC central offices that are being converted to "collocation hotels." Any competing carrier that wishes to collocate equipment other than that authorized by Congress to be placed in incumbent LEC premises have ample opportunities to do so. In fact, a Commission ruling that follows the letter of the law will promote development of these market-based collocation alternatives.

The issue of mandated cross-connects between competing carriers' equipment has been answered by the Court of Appeals. The court clearly held that Section 251(c)(6) only authorizes mandatory collocation for the purpose of interconnecting with the incumbent's network, not for interconnecting with the networks of other competing carriers.

The court has also resolved the issue of who controls the assignment of space in the incumbent's central offices. The court recognized that the property owner retains the right to assign collocation space. Not only is this a legal requirement, but it is the proper answer from a policy perspective as well. Only if the incumbent controls the assignment of space can the amount of space available be maximized and the space be assigned efficiently. The Court has also recognized the right of the incumbent LEC to segregate its own equipment from that of competing carriers. This can only be accomplished if the incumbent has control over space assignment.

The Commission should not alter its existing rule that requires incumbent LECs to make space available in single-bay increments. Any smaller increment would create numerous technical and operational difficulties that would adversely affect both the incumbent LECs and competing carriers.

At remote incumbent LEC premises, the Commission should adopt a preference for adjacent collocation in which the competing carrier installs its own cabinet to house its own equipment. As shown in these Comments, adjacent collocation avoids numerous problems that would be created if the Commission made physical collocation the first alternative. If adjacent collocation is not practical at a given location, the Commission should establish virtual collocation as the second choice. Only if adjacent collocation and

virtual collocation are not practical at a given location should the incumbent LEC be required to offer physical collocation at remote locations. The Commission should reject Rhythms proposal to require incumbent LECs to allow collocation of individual line cards in the incumbent's digital loop carrier systems. As shown in these Comments, collocation of competing carrier's line cards is not necessary to access unbundled loops or sub-loops, and therefore do not meet the statutory standard for mandatory collocation. There are also a host of technical and operational issues that would be created by such a requirement that render such a requirement not practical.

In the *Order on Reconsideration* the Commission adopted a national standard provisioning interval of 90 calendar days in states where the state commission has not adopted a state standard provisioning interval. BellSouth believes that a 90-day standard cannot be met consistently if applied to unconditioned space. BellSouth urges the Commission to adopt a national standard of not less than 120 days for unconditioned space.

The *Order on Reconsideration* states that the 90 days begins to run when the incumbent receives "an acceptable collocation application." The Commission did not define what constitutes an "acceptable collocation application." BellSouth urges the Commission to define an "acceptable collocation application" as containing a firm order for collocation space and an undertaking to pay for that space. The incumbent LEC should not be required to undertake work and incur costs until the competing carrier has firmly committed to a specific collocation arrangement and to pay for the collocation space it has ordered.

The Commission should not adopt a national space reservation policy. Zoning and permitting intervals vary from state to state, and the state commissions are in the best position to evaluate whether a given space reservation policy is reasonable. The Commission should recognize that it takes a *minimum* of two years for an incumbent LEC to plan, design and construct a building addition. For that reason, no space reservation limitation for any type of equipment should be less than two years. If the Commission adopts a national standard for space reservation, it must recognize that the incumbent LEC has floor space needs for the equipment necessary to facilitate collocation such as digital cross-connect systems, distribution frames and power plant growth. The Commission should also consider the technical requirements that the incumbent LEC faces when making switch additions.

In conclusion, the Commission should modify its rules to faithfully implement the rulings of the Court of Appeals. It should not attempt to relitigate issues already decided by the Court. It should clarify what constitutes an “acceptable collocation application” to include a firm order and a commitment to pay for the collocation space. The Commission should lengthen the national standard for unconditioned space to a minimum of 120 days. These steps will speed the development of local competition by giving clear guidance to the competing parties and avoiding further litigation.

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COMMENTS OF BELL SOUTH

BellSouth Corporation, on behalf of itself and its affiliates ("BellSouth"), hereby comments in response to the Second Further Notice of Proposed Rulemaking ("Second Further Notice"), FCC 00-297 (August 10, 2000), in the captioned proceeding.

The Second Further Notice responds to the decision of the D.C. Circuit Court of Appeals in *GTE v. FCC*, 205 F.3d 416 (D.C. Cir., 2000) which vacated portions of the collocation rules adopted in the *Advanced Services First Report and Order*, 14 FCC Rcd 4761 (1999). In doing so, the Court held:

[T]he FCC's interpretations of "necessary" and "physical collocation" appear to diverge from any realistic meaning of the statute, because the Commission has favored the LECs' competitors in ways that far exceed what is "necessary" to achieve "physical collocation" and in ways that may result in unnecessary takings of LEC property.¹

The Court admonished the Commission that the vacated rules were "overly broad and disconnected from the statutory purpose enunciated in Section 251(c)(6)."² Despite

¹ *GTE v. FCC*, 205 F.3d at 421.

² *GTE v. FCC*, 205 F.3d at 422.

this admonition, and the Commission's legal obligation to give effect to the Court's ruling,³ the Second Further Notice seeks comment on proposals that are even further disconnected from the limited intrusion on the property rights of the incumbent LECs that Congress authorized. BellSouth urges the Commission to avoid the error of acting outside the limited authorization granted by Congress. In many instances, BellSouth has negotiated collocation arrangements that go beyond the requirements of the Commission's rules. These comments address only the mandatory requirements imposed by the Commission, and are not meant to suggest that BellSouth will refuse reasonable requests by collocators that go beyond the legal minimum.

I. Meaning of "Necessary" under Section 251(c)(6).

Section 251(c)(6) of the Communications Act requires that incumbent LECs permit competitors to collocate equipment "necessary for interconnection or access to unbundled network elements." The Commission interpreted this statutory language to require incumbent LECs to permit collocation of any equipment that is "used or useful" for either interconnection or access to unbundled network elements, regardless of whether such equipment includes a switching functionality, provides enhanced services, or offers other functionality.⁴ The Court of Appeals vacated this aspect of the First Report and Order. The Court held:

³ 47 U.S.C. § 402(h) provides, in pertinent part, "In the event that the court shall render a decision and enter an order reversing the order of the Commission, it shall remand the case to the Commission to carry out the judgment of the court, and it shall be the duty of the Commission, in the absence of the proceedings to review such judgment, to forthwith give effect thereto, ..."

⁴ Second Further Notice, ¶ 72.

Something is *necessary* if it is *required* or *indispensable* to achieve a certain result. Thus, competitors who are protected by the Act have a right to collocate any equipment that is *required* or *indispensable* to achieve interconnection or access to unbundled network elements at the premises of the local exchange carrier.⁵

Noting that the Supreme Court found the Commission's definition of "necessary" in the context of Section 251(d)(2) was overly broad and "simply not in accord with the ordinary and fair meaning of the [statute's] terms", the Court of Appeals held that "necessary" must be construed "so as to limit 'necessary' to that which is required to achieve a desirable goal."⁶

Despite the fact that the Court clearly defined the "ordinary and fair meaning" of the word "necessary", the Commission invites comment on alternate definitions because of its policy concern that the Court's definition would "restrict collocators to deployment of equipment that can only be used for interconnection or access to unbundled network elements even if that equipment is not the most efficient for providing telecommunications services."⁷ Such a rationale for expanding the statutory definition of "necessary" has already been rejected by the Court of Appeals:

The FCC's Collocation Order seeks to justify this broad rule by contending that "competitive telecommunications providers must be permitted to collocate integrated equipment that lowers costs and increases the services they can offer their customers." *Id.* at 4777-78 p. 29. It was precisely this kind of rationale, based on presumed cost savings that the Supreme Court flatly rejected in *Iowa Utilities Board*. See 525 U.S. at 389-90. In short, the FCC's interpretation of "necessary" under § 251(c)(6) goes too far and thus "diverges from any

⁵ *GTE v. FCC*, 205 F.3d at 422 (emphasis by the court).

⁶ *GTE v. FCC*, 205 F.3d at 423, citing *AT&T v. Iowa Utilities Board*, 525 U.S. 366 (1999).

⁷ Second Further Notice, ¶ 77.

realistic meaning of the statute.” *Massachusetts v. Department of Transp.*, 93 F.3d at 893.⁸

Limiting collocation rights to those authorized by Congress does not relegate competing carriers to using inefficient equipment. There are increasingly available alternatives to collocation on incumbent LEC premises. For example, in downtown Atlanta, several existing buildings are being refurbished as “collocation hotels” where competing carriers can collocate any equipment they desire to utilize to serve their customers.⁹ Limiting collocation on incumbent LEC premises to equipment which is “necessary” for interconnection or access to unbundled network elements will encourage the development of collocation alternatives for competing carriers. Applying the

⁸ *GTE v. FCC*, 205 F.3d at 424.

⁹ For example, within the last two months, Global NAPs announced that it would convert a 30,000 square foot industrial building in the West End of Atlanta into a collocation facility. *The Atlanta Journal and Constitution*, October 2, 2000, page 2D. Core Location is developing Metro Technology Center Atlanta, a one million square foot collocation and web-hosting facility in a former Sears warehouse. *The Atlanta Journal and Constitution*, September 29, 2000 page 4F. Teleplace Inc. has acquired a former Casual Corner Warehouse in Norcross containing 218,000 square feet to convert into a telecom hotel and data center. It expects to add another 200,000 square feet to the site next year. *The Atlanta Journal and Constitution*, September 18, 2000, page 2H. Teleplace is also converting the former Roberds store in Buckhead into a telecommunications facility, and promised a free Hawaiian vacation for two to any broker who brought a deal of 20,000 square feet or more to the building. *The Atlanta Journal and Constitution*, August 28, 2000, page 2D. Teleplace has also planned a three story, 110,000 square foot building next to the Roberds building, where WorldCom has leased half of the existing 80,000 square foot building. *The Atlanta Journal and Constitution*, August 22, 2000, page 1C. The Ivan Allen Building in downtown Atlanta is being converted into an 84,000 square foot telecom facility that will house the equipment of several companies. *The Atlanta Journal and Constitution*, September 15, 2000, page. 3C. JEBM Realty Corp. of New York is buying a 203,000 square foot industrial building in Forest Park that will be converted into a telecom hotel that will house equipment for telecommunications and high tech companies. In Suwanee, IDI sold a 303,000 square foot industrial building to ITC DeltaCom, which is converting it into an Internet data center, telecom hotel and headquarters for its eDeltaCom unit. *The Atlanta Journal and Constitution*, August 25, 2000, page. 3F. The top five floors of the historic Macy’s building in downtown are being converted into 360,000 square feet for use by Internet, telecommunications and e-commerce companies. The first 55,285 square feet was leased by Colo.com, which operates collocation facilities for several clients. *The Atlanta Journal and Constitution*, August 22, 2000, page 3C.

“ordinary and fair meaning” of the term “necessary” will not “necessarily require competitors to provide service of a significantly lower quality than that which could be provided using equipment that employs other functions” as the Second Further Notice apparently fears.¹⁰

The Second Further Notice asks why excluding functionalities that are not “necessary” for interconnection or access to unbundled network elements from collocated equipment “would be just, reasonable and nondiscriminatory and, therefore, satisfy the requirements of sections 251(c)(2) and (3).”¹¹ Congress carefully limited the obligations of incumbent LECs under Section 251. Thus, the duty to provide for interconnection with the incumbent LEC’s network is only “for the transmission and routing of telephone exchange service and exchange access.”¹² Likewise, the duty to provide unbundled network elements is only “for the provision of a telecommunications service.”¹³ The duty to collocate is limited to “equipment necessary for interconnection or access to unbundled network elements...”¹⁴ Since the interconnection and unbundled network element obligations are limited to the provision of telecommunications services, so is the duty to collocate. This is not to suggest that competing carriers cannot attach multi-function equipment to the incumbent LEC’s network. It simply means that they cannot do so under the extraordinarily favorable terms set forth in Section 251.

¹⁰ Second Further Notice, ¶ 77.

¹¹ Second Further Notice, ¶ 81.

¹² 47 U.S.C. § 251(c)(2)(A).

¹³ 47 U.S.C. § 251(c)(3).

¹⁴ 47 U.S.C. § 251(c)(6).

Paragraph 82 of the Second Further Notice addresses the provision of service through digital loop carrier (“DLC”) systems. The decision to deploy DLC is an economic one. DLC is, in many cases, an alternative to deploying new copper feeder cable. BellSouth has employed DLC for many years. DLC replaces or augments copper loop facilities from the central office to the remote terminal. Copper is still the predominant facility from the remote terminal to the end user.¹⁵ A large percentage of BellSouth’s voice customers are now served over DLC. When a loop is provided over DLC, a “line card” is an integral part of the loop.¹⁶ When a competing carrier obtains a subloop from a Feeder-Distribution Interface (FDI) to the end user, the subloop has accessible demarcation points at both ends.¹⁷ Since it is accessible, in no case is a line card “necessary” for access to the unbundled subloop between the FDI and the end-user. In fact, BellSouth provides ADSL service today from remote products, such as remote DSLAMs, without the use of the DLC line card at all.

Since neither unbundled loops nor unbundled subloops require a CLEC provided line card, line cards are not “necessary” to the provision of telecommunications services, and incumbent LECs are not required to allow them to be collocated on the incumbent LEC’s premises.

¹⁵ Exceptions are Fiber in the Loop systems where the fiber is brought to a pedestal at the end users’ premises.

¹⁶ Line cards are a function of the channelization of the DLC system. They provide the analog/digital conversion on the analog signals coming from the customer into a digital format that is multiplexed into the digital trunks feeding the DLC system.

¹⁷ BellSouth has two subloop UNE offerings, feeder (from the central office to the FDI) and distribution (FDI to end-user). There is no element from the remote terminal to the FDI.

Paragraph 83 asks whether providers of “dark fiber” or interoffice transport are entitled to collocate in incumbent LEC central offices. As discussed above, only telecommunications carriers that are interconnecting with BellSouth or accessing UNEs are permitted to collocate in BellSouth’s central offices. Carriers that are only providing their fiber and fiber terminations or interoffice transport to be used by other carriers with no intention of interconnecting with BellSouth or accessing UNEs are not entitled to collocate on BellSouth’s premises.

II. Cross-connections between Collocators.

The Second Further Notice asks a series of questions premised on the proposition that the statute requires incumbent LECs to provide or permit cross connections between collocators. This premise was expressly rejected by the Court of Appeals:

One clear example of a problem that is raised by the breadth of the Collocation Order’s interpretation of “necessary” is seen in the Commission’s rule requiring LECs to allow collocating competitors to interconnect their equipment with other collocating carriers. See Collocation Order, 14 FCC Rcd at 4780, p 33 (“We see no reason for the incumbent LEC to refuse to permit collocating carriers to cross-connect their equipment, subject only to the same reasonable safety requirements that the incumbent LEC imposes on its own equipment.”) The obvious problem with this rule is that the cross-connect requirement imposes an obligation on LECs that has no apparent basis in the statute. Section 251(c)(6) is focused solely on connecting new competitors to LECs’ networks. In fact, the Commission is almost cavalier in suggesting that cross-connections are efficient and therefore justified under Section 251(c)(6). This will not do. The statute requires LECs to provide physical collocation of equipment as “necessary for interconnection or access to unbundled network elements at the premises of the local exchange carrier,” and nothing more. As the Supreme Court made clear in *Iowa Utilities Board*, the FCC cannot reasonably blind itself to statutory terms in the name of efficiency. Chevron deference does not bow to such unbridled agency action.¹⁸

¹⁸ *GTE v. FCC*, 205 F.3d at 423-24.

The Court has clearly held that “Section 251(c)(6) is focused solely on connecting new competitors to LECs’ networks.” The Commission is bound by statute to give effect to that finding.¹⁹

The Second Further Notice seeks to find a statutory basis to require cross connections between collocators in other statutory language, such as Section 251(a)(1) and Section 251(c)(2). Section 251(a)(1) simply defines the duty of every telecommunications carrier “to interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers.” This duty applies to carriers who have no duty to collocate at all. It clearly cannot expand the specific statutory duty of interconnection imposed only on incumbent LECs. That duty is defined by Section 251(c)(2), which establishes the “duty to provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the local exchange carrier’s network.” (Emphasis added.) Section 251(c)(2) clearly provides no statutory basis for the Commission to require that incumbent LECs permit collocating carriers to cross-connect among themselves.

III. Meaning of “Physical Collocation” under Section 251(c)(6).

The Second Further Notice asks a series of questions regarding the space assignment policies of incumbent LECs, and whether those policies require the adoption of national rules. In *GTE v. FCC* the Court vacated the Commission’s requirements that allowed collocators to select any unused space in the LEC central office, prohibited the LECs from requiring competitors to use separate entrances to access their own

¹⁹ See 47 U.S.C. § 402(h), cited above.

equipment, and prohibited LECs from segregating CLEC equipment in isolated rooms or floors. The Court found there is nothing in Section 251(c)(6) that allows competitors, over the objection of the LEC property owners, to pick and choose preferred space on the LECs' premises. The Court held that the statute requires only that the LECs make space available for physical collocation, nothing more. The additional requirements imposed by paragraph 42 of the *Collocation Order* were found to exceed what is "necessary" to achieve reasonable "physical collocation" and in ways that may result in unnecessary takings of LEC property. "Once again we find that the FCC's interpretation of Section 251(c)(6) goes too far and thus 'diverges from any realistic meaning of the statute.'"²⁰

The Court of Appeals decision makes it clear that the LECs have the full bundle of rights of a property owner, subject only to the statutory right of a competing carrier to collocate its equipment for purposes of interconnection with the incumbent's network or to access unbundled network elements. The Commission may invade those property rights only to the extent "necessary."

There is no need for the Commission to adopt a national space assignment policy. Each LEC central office is unique, as are zoning and permitting intervals that vary from state to state. If there are disputes about an incumbent's space assignment policies, the state commissions are best situated to resolve any disputes on a case-by-case basis.

Not only does the incumbent have a legal right to assign space within its premises, it also is the proper party to do so from a policy perspective. The incumbent LEC is best positioned to assign space in the most efficient fashion to maximize the space available for future use by the ILEC and CLECs alike. If each requesting CLEC is

²⁰ *GTE v. FCC*, 250 F.3d at 426.

allowed to select any unused space in the central office based only on its own self-interest, the resulting assignments of space will not be efficient and will not maximize the amount of space available. BellSouth's policy is to assign space for collocated equipment that requires a minimum amount of space preparation and which can be occupied by the collocator in the shortest period of time. BellSouth does reserve growth floor space for its own needs that is contiguous to its existing equipment. If adequate space is available, BellSouth provides collocators with the same opportunity to reserve growth space that is contiguous to their installed equipment. No further regulations are required.

The Second Further Notice invites comment on whether the incumbent may lawfully place collocators in a room or other isolated space separate from the incumbent's own equipment.²¹ The Court of Appeals has clearly answered that question in the affirmative. The Commission's concern that separating the equipment of the collocators from that of the incumbent would adversely affect the ability of the collocator to interconnect is unfounded. Separation of collocation space does not inhibit interconnection. Premises designed to house telecommunications equipment are designed to allow interconnection of all of the telecommunications equipment space.

The fact that these spaces may be on separate floors or in separate rooms does not inhibit interconnection. BellSouth applies consistent building support systems and network infrastructure standards for all telecommunications space, whether occupied by BellSouth equipment or collocated equipment. BellSouth prepares all space with the expectation that the space may, at some point, be used for BellSouth equipment. "Relegating"

²¹ Second Further Notice, ¶ 97.

collocated equipment to space separated from BellSouth equipment would neither improve nor diminish its quality.

IV. Minimum Space Requirements.

In the Second Further Notice, the Commission notes that its existing rules require incumbent LECs to make collocation space “available in single-bay increments.”²² It seeks comment on whether it has statutory authority to require incumbent LECs to make collocation space available in smaller units such as a “quarter-bay.” It also asks whether this statutory authority extends to requiring incumbent LECs to permit placement of CLEC equipment within the same racks or bays as incumbent LEC equipment when no other physical collocation space is available.²³

Section 251(c)(6) addresses the remedy available when physical collocation space is unavailable. It authorizes the incumbent LEC to offer virtual collocation “if the local exchange carrier demonstrates to the State commission that physical collocation is not practical for technical reasons or because of space limitations.” The Commission has also embraced “adjacent collocation” as a solution when there is not adequate space in the incumbent LEC premises for physical collocation.²⁴

BellSouth believes that it is not “practical” to require incumbent LECs to offer physical collocation space in less than single-bay increments. In central office premises, infrastructure design is based upon equipment installed in industry-standard equipment

²² Second Further Notice, ¶ 99.

²³ Second Further Notice, ¶ 100.

²⁴ Second Further Notice, ¶ 110.

racks. The Second Further Notice does not offer specific standards that would be applied for “spaces too small to accommodate a rack.” In the absence of a specific proposal, BellSouth is concerned that requiring physical collocation in spaces smaller than a rack would impair the ability of the incumbent LEC to maintain the integrity of the existing standards. Sub-rack collocation would introduce the following difficulties: 1) all physical separation of equipment space would be eliminated; 2) space management would become overly complex, since space would have to be managed at the rack mounting-plate level; 3) there would be increased risk of one party damaging the equipment of another while installing, modifying or removing equipment, thereby resulting in equipment damage claims by parties occupying the same rack; 4) equipment cable management would have to occur at the rack level; 5) having up to four or more collocators occupy the same rack will result in space contention as multiple parties attempt simultaneous access to the rack for construction, maintenance, operation, or modifications;²⁵ 6) accuracy of asset records would suffer due to the requirement to identify ownership at the unit level rather than the rack level; 7) increased performance risks that would have to be managed by the incumbent LEC;²⁶ and 8) further erosion of security infringing on the right of the incumbent LEC to secure its equipment.²⁷ Were the Commission to require incumbent

²⁵ Even at the rack level space contention has become a significant problem. Mandated sub-rack collocation would greatly exacerbate this problem. Where collocators agree to share physical collocation space, BellSouth permits such arrangements.

²⁶ For example, the heat dissipation from one party’s equipment could adversely affect the performance of another party’s equipment that is mounted directly above in the same rack.

²⁷ The ability of all parties to secure their equipment would be impaired with sub-rack collocation. With rack-level collocation, individuals can be observed and questioned about their presence in the floor space of other parties. That is not practical if the Commission requires sub-rack collocation. BellSouth has no objection to collocators installing equipment cabinets for security purposes, provided such cabinets comply with NEBS requirements for supporting overhead cable racking and auxiliary framing.

LECs to permit CLEC equipment to be collocated in the same rack as the equipment of the incumbent, all of the above problems would occur and, in addition, the right of the incumbent LEC to reserve space for future growth would be impaired.

Because every central office is different, the Commission should not attempt to impose national standards that assume that a “one-size-fits-all” approach is appropriate. Congress has entrusted the implementation of the statutory collocation obligation to the state commissions in situations involving space shortages, and this Commission should respect that allocation of responsibility.

V. Collocation at Remote Incumbent LEC Premises.

The Second Further Notice asks whether and to what extent the Commission should modify its collocation rules to facilitate subloop unbundling.²⁸ In light of the Court of Appeals decision, the Commission must revisit its remote premises collocation requirements. The Court of Appeals recognized the right of the incumbent LECs to segregate collocators equipment from the incumbent LECs’ own equipment.²⁹ At most remote premises, such segregation is impractical. As the Commission acknowledges, many enclosures are specifically designed to house the equipment of a single manufacturer.³⁰ In such circumstances, “physical collocation is not practical ...because of space limitations,”³¹ and the statute permits the incumbent LEC to offer virtual collocation in lieu of physical collocation. The Commission has also endorsed adjacent collocation as an alternative to physical collocation in situations where physical

²⁸ Second Further Notice, ¶ 104.

²⁹ 205 F.3d at 426.

³⁰ Second Further Notice at ¶ 105.

collocation space is not available. Adjacent collocation would solve many of the concerns raised by physical collocation at remote premises.

The Commission requests comment on whether physical collocation in remote terminals presents security concerns.³² Security concerns are obviously far greater in a remote location than in a manned central office. CLEC personnel would have unsupervised access to incumbent LEC and other CLEC equipment and services when physical collocation is required at remote premises. Those concerns would be greatly ameliorated if the standard form of collocation for remote premises were virtual or adjacent collocation. For example, if the CLEC provides its own cabinet, there would be no technical concerns and few security concerns because each company would have access only to its own equipment.

Paragraph 104 also asks for comment regarding procedures for ensuring that CLECs receive the necessary power and other technical support in remote terminals. When physical collocation in remote terminals is required, technical support will necessarily be based on CLEC engineering design for the proposed equipment installation. The incumbent LEC will need to have access to the CLEC technical needs, e.g., current drain, heat rise, etc., to make the determination whether the proposal is feasible at a given site. Again, these technical concerns, and information sharing requirements, can be ameliorated if the CLEC places its own cabinet. If adjacent collocation is used, the CLEC will deal with the local power company for its power

³¹ 47 U.S.C. § 251(c)(6).

³² Second Further Notice at ¶ 104.